

# ***Topsfield Conservation Commission***

**Meeting of Wednesday, October 14, 2009**

Topsfield Library Meeting Room~ 7PM

The meeting was called to order at 7:05 p.m. with a quorum present: Holger Luther, Acting Chair; Jim MacDougall; Jennie Merrill; Jud Pratt; Mark Erickson

Absent: George Hall

Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary

Public information: Agenda

Acronyms:

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

ORAD – Order of Resource Area Delineation

CoC – Certificate of Compliance

BVW – Bordering Vegetated Wetland

MAHW – Mean Annual High Water

NOI – Notice of Intent

OoC – Order of Conditions

EO – Enforcement Order

EPA – Environmental Protection Agency

Public Information: Agenda

7:04 PM

7:00pm **OPEN MEETING:**

Sign bills, authorizations and time sheets

Mr. Luther introduced the new Conservation Commission Secretary, Kathy (Kathleen) Eramo, who started her job in the TCC office today.

## **HEARINGS:**

**Continuation NOI 307-0652: 50 Prospect Street, (Map 48, Lot 12), Crowe/Hancock Associates**

Present: John Dick, Hancock Associates, representative of Mike Crowe of TriTown Realty Trust

Mr. Dick reported on the Stormwater Plan for 50 Prospect Street, saying that the 12" pipe under the driveway has been removed. He explained that to equalize the whole subcatchment that accumulates water because of the low point, when the driveway is constructed the proposal is to install three stone under-drains that would allow flow in either direction, as well as French drains on both ends to slow water from the driveway and to accept water to recharge groundwater. He went on to explain other details of the revised plan to the Commissioners. He noted that the replication/mitigation area shrubs were planted as requested and he counted 20+ shrubs, but are they being eaten by the deer. He recommended four hemlocks be planted to replace dead and missing trees and shrubs. Mr. Dick responded to the DEP comment, "Appears that mitigation for BVW fill is being done in a BVW - does not meet performance standards. Needs detailed narrative and alternatives analysis for BVW fill," saying that there was a misunderstanding – the replication area was created when the driveway was put it and no work can continue as the local order has expired. He suggested that the requirements for Buffer Zone mitigation that was never done be included in the new OOC.

Ms. Spillman explained that the correct Buffer Zone line on the plan is the one going through the proposed house location.

Mike Crowe is expected to submit a written request for a waiver of Bylaw Regulation R: 10-4.e.2. (c.) to allow construction of the house, etc. in Buffer Zone on a lot created after May 2000. Mr. Dick addressed the four Bylaw Regulations waiver requirements and submitted documents and a plan for the record.

The hearing was opened to public comment. Joe Geller of 52 Prospect Street noted that the applicant purchased the property knowingly putting himself into a hardship situation. He believes more water would collect in the basin on the property, and he would like the applicant to increase the size of the culvert under the driveway. Mr. Geller also has concerns related to the septic system plan, which are a Board of Health decision.

*Mr. Pratt made a motion to close the hearing. Mr. Erickson seconded and the motion carried by unanimous vote.*

*Mr. Erickson made a motion to grant a waiver to the Bylaw Regulation R: 10-4.e.2. (c.) (for constructing a house in Buffer Zone). Mr. Pratt seconded.*

Discussion followed, with Mr. MacDougall observing that this would be new construction in the Buffer Zone and that the new Buffer Zone line is due to the created replication wetland. He questioned if the waiver is allowable. The consensus is that prior work and decisions have been inherited, and there is a question as to whether there could have been a better design for the site.

*The Motion carried by unanimous vote.*

The Plan submitted was identified as Revised Plan (August 4, 2009) dated October 6, 2009

Waiver Request is dated October 14, 2009

Mitigation Report is dated October 14, 2009

Mitigation Plan is the one that was presented with file #307-0415

*Mr. Luther made a motion to close the hearing and issue an Order of Conditions based on the Revised Plan of August 4, 2009, Revision #2 dated October 6, 2009, with Special Conditions under the Act and the Bylaw and considerations of additional documents entitled waiver request, mitigation report, and the stormwater report, subject to normal conditions that go with the construction of the site. Mr. Pratt seconded and the motion carried by unanimous vote.*

**Nol 307-0653: 20 Wilmor Road**, (Map10, Lot 4), Pratt /The Neve-Morin Group, Inc.

Present: Greg Hochmuth, The Neve-Morin Group, representing Lisa and Andrew Pratt

Abutter notification was collected. Ms. Merrill read the legal ad. Jud Pratt recused himself, citing personal interest and he left the room.

The proposal is to construct an in-ground swimming pool and paver patios, conduct grading and install a fence within the Buffer Zone of a Bordering Vegetated Wetland and within Riverfront Area of Pye Brook.

Mr. Hochmuth stated that the plan will be changed with a reduction of the size of proposed alterations for the next hearing date. He explained that mitigation in accordance with the Rivers Act is proposed at a 1: 1 ratio. No flushing of chlorinated water will be in the resource area. The revised plan will show a perimeter infiltration trench. A waiver of Bylaw Regulation R: 10-4.e.2. (a.) would be needed. Mr. Hochmuth explained that there are several debris areas – some in BVW and some in MAHW of the river, and a pile of flagstones in the woods; he expects that those would be removed as part of the conditions of an OoC. He explained the proposed native plantings for the Mitigation Area shown on the plan.

The Commission took no vote and asked that the revised plan be submitted prior to the next meeting.

*Ms. Merrill made a motion to continue the hearing to October 28, 2009. Mr. Erickson seconded and the motion carried by unanimous vote.*

Mr. Pratt returned to the meeting.

**RDA 2009-13: 171 Haverhill Road**, (Map 2, Lot 8), Williamson

Paula and Robert Williamson were present.

The TCC office has Certificates of Mailing as proof of abutter notification; Ms. Merrill read the legal ad.

Ms. Spillman noted that the applicants have not requested a CoC for a previous OoC, now expired, to construct a large detached “garage” in the Buffer Zone of BVW and Hoods Pond. The garage has been built. For the current filing, she explained that the submitted plan, which was submitted electronically, is lacking necessary information – e.g. BVW boundary, scale/distance from BVW to proposed addition, dimensions of proposed addition, etc. She also would like to make a site visit.

*Mr. Pratt made a motion to continue the hearing until October 28, 2009. Mr. Erickson seconded and the motion carried by unanimous vote.*

**RDA 2009-14: 70 Campmeeting Road**, (Map 20, Lot 39), Peabody/The Neve-Morin Group, Inc.

Present: Greg Hochmuth of The Neve-Morin Group, and Daniel and Grace Peabody

Mr. Pratt recused himself as a notified abutter. Mr. Pratt left the room.

Proof of abutter notification was collected; Ms. Merrill read the legal ad.

The proposal is to construct a gravel driveway and perform grading in the Buffer Zone to a Vernal Pool and BVW. Mr. Hochmuth explained that here is Riverfront Area to Howlett Brook in the back of the property. Mr. Peabody referenced the plan and explained the location of the driveway, which will pitch away from the wetland. There was no public comment.

*Mr. Erickson made a motion to close the hearing and issue a Negative Determination with Conditions under the Act and the Bylaw. Ms. Merrill seconded and the motion carried by unanimous vote.*

Mr. Pratt returned to the meeting.

**ENFORCEMENT, APPEAL REPORTS, UPDATES:**

**Violation Notice #2009-02: 207 Boston Street/Topsfield Fairgrounds**, (Maps 57 & 49, Lots 4 & 2) – discussion

Present: Essex Agricultural Society Board member Attorney Frank DiLuna and Jim O’Brien, General Manager of the Fair

Re: Violation and necessary mitigation, plus possible long-term plans.

Ms. Spillman explained the violations that occurred during the Fair, including the placement of fill in Resource Areas.

Mr. O’Brien summarized the problems they had with getting trailers out of the muck at the Fairgrounds and stated that they have back dragged and ordered rye seed, the silt fence is up and hay bales are there. Knowing it was a concern, Mr. O’Brien stated they are already working on a restoration plan. Mr. O’Brien was asked to send a mitigation plan to the TCC office and the Administrator will do a site visit.

There was discussion about Fair parking, problems when there are wet conditions, and possible solutions. The TCC would like to meet with the General Manager and others in November to discuss and systematically deal with future Fairs, especially Fair parking.

**Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update and discussion.**

Representative Mike DeRosa is scheduled to present a plan showing the contour of the pond and photographs at the October 28<sup>th</sup> meeting. Ms. Spillman confirmed that Mr. Albright has not paid the \$6,250 Bylaw fine, noting that his appeal in March of 2008 was denied by TCC.

The Commission discussed the enforcement order; action was deferred to the next meeting.

**2<sup>nd</sup> Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka – update**

Ms. Spillman reported that she spoke with DEP this afternoon about a TCC request for DEP to take over this enforcement. DEP is in the process of starting the review with a site visit.

**Violation Notice #2009-01: 72 Hill Street, (Map 69, Lot 16), Malinowski – update**

Ms. Spillman made a site visit last week and reported that she found that some corrective grading had taken place, but grading to solve the problem with runoff onto the street did not appear to be completed.

**SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row, (Map 43, Lot 7), Skeffington – update and discussion**

The appeal is between DEP and Mr. Skeffington. A pre-hearing screening is scheduled for October 27; the adjudicatory hearing is scheduled for January. The TCC is encouraged to attend. The Administrator was instructed to reply to the October 14th letter, saying that TCC expects the given schedule to be followed.

#### **MEETING MINUTES:**

Approve minutes of **September 9, 2009**

**The TCC took no action and deferred this to the next meeting.**

#### **REQUESTS:**

**Continuation CoC 307-0433: 131 Haverhill Road, (Maps 2 & 5, Lots 10 & 15), Topsfield Beach Association**

It was the consensus of the TCC to grant the extension of time for issuance to allow continuing conditions to be written.

**Extension to OoC #307-0573: 222 Boston Street, (Map 49, Lot 51), Moran/The Neve-Morin Group, Inc.**

The project is replacement of a septic system in Buffer Zone/Riverfront Area, etc. Mr. Moran is expecting to install the system during this coming year.

*Mr. Pratt made a motion to extend the Order of Conditions under the Act and the Bylaw for two years to expire on November 9, 2011. Ms. Merrill seconded and the motion carried by unanimous vote.*

**Emergency Certification, TCC 09-03, 4 Pine Ridge Road, (Map 31, Lot 19), Reichardt – Ratification**

This is for the removal of diseased tree in Buffer Zone; part of the tree was leaning over the house.

*Ms. Merrill made a motion to ratify the Emergency Certification under the Act and the Bylaw. Mr. Pratt seconded and the motion carried by unanimous vote.*

**Emergency Certification, TCC 09-04, 35 Howlett Street,** (Map 32, Lot 25), MacKinnon – Ratification  
This is for the removal of two dead trees in Buffer Zone next to an Intermittent Stream. One was leaning against the other and would fall onto the garage.

*Ms. Merrill made a motion to ratify the Emergency Certification under the Act and the Bylaw. Mr. Pratt seconded and the motion carried by unanimous vote.*

**OLD BUSINESS, UPDATES, & MISCELLANEOUS:**

**ECTA Trail Maintenance at Bradley Palmer State Park** – Informational

Mr. MacDougall mentioned that ECTA will be addressing trails at Willowdale State Park next.

**Ipswich Road Project – Update:** The project is nearing completion. The drainage system is installed.

**307-0629: 12 Boston Street/English Commons:** Proposed trail/boardwalk access from Rowley Bridge Road – discussion with Alan Berry

Alan Berry and Selectman Dick Gandt discussed the proposed boardwalk. A request to amend the current OoC will be filed for TCC acceptance of a revised plan so that the Commission, Board of Health, and Planning Board all will be working with the same plan (Dated October 6, 2009). Reportedly there are no revisions relative to TCC jurisdiction. Mr. Berry questioned the condition in the Order to allow for certain changes. He will send a copy of what he is referencing to the TCC office.

Mr. Berry explained that as part of the Planning Board's (PB) approval there is a requirement that an Order of Conditions from TCC for a boardwalk across a large wetland, for public access from Rowley Bridge Road, be applied for within 30 days of the PB decision. One condition was that the PB wants a foot path through the open space connecting with a public street for public access. A 260-foot boardwalk will be necessary through the wetlands. It would be less than 30 inches off the ground and about 4 feet wide, with galvanized pipes into the ground. It would be owned by the Condominium Association. Mr. MacDougall recommended gaps between the boards to allow light to go through. It was the sense of the meeting for Mr. Berry to go forward with the proposed boardwalk application.

**General Permit** – there was no discussion.

**ADMINISTRATOR'S REPORT:**

**Commission Secretary**

Ms. Spillman reported that Kathy Eramo started as the new Commission Secretary today, saying that she fits in well and is very productive.

Mr. Pratt suggested that that the TCC set up a meeting with Town employees to explain what the current TCC strategy is how the TCC operates as a new Commission.

The Commission talked about the best way to work with other Town Boards and Committees.

Mr. Pratt initiated a discussion about the Administrator's hours and accountability. The Commission talked about ways of tracking how the Administrator's time is spent.

**EXECUTIVE SESSION:** Current and pending litigation

Mr. Pratt moved to enter into Executive Session to discuss current (**57 Candlewood Drive/109R Perkins Row – Skeffington**) and pending (**Cross Street – Nash**) litigation and to return to open session solely for the purpose of adjournment. Mr. MacDougall seconded the motion and there was a roll call vote that passed with all in favor:

Luther	aye
MacDougall	aye
Merrill	aye
Erickson	aye
Pratt	aye

9:56 PM – The TCC returned to open session.

Mr. MacDougall made a motion to adjourn and it was unanimous to do so.

Respectfully submitted,

Catherine Tinsley

*Accepted at the TCC meeting on November 17, 2010*

*Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Commission constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Commission as to the completeness or accuracy of such statements.*